

Poole, Jill L. (Omaha)

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**From:** thomas@strelkalaw.com  
**Sent:** Friday, July 20, 2012 7:12 AM  
**To:** Poole, Jill L. (Omaha)  
**Cc:** Jon Axelrod; Justin Keating; leigh@strelkalaw.com  
**Subject:** Johnson v. Atlas Discovery & Retaliation

Jill,

While we appreciate your agreement to extend the time for our discovery requests, we are by no means requesting an "indefinite extension" of time. Your suggestion that we have not been participating in discussions in regards to scheduling matters and/or not diligently working to respond to Atlas' discovery requests is not accurate. Indeed, one of the reasons that we have needed more time to respond to Atlas' discovery is that Atlas has been scheduling many of its employees, including the Plaintiffs, on extended/overtime shifts due to a very large storm and corresponding power outage that the area experienced several weeks ago. This wreaked havoc at all of the local grocery stores so it is our understanding that Atlas has been very busy indeed since that time. This has caused us to have a challenge in finding mutually agreeable times to meet with our clients but we have been flexible and have been meeting with them even after normal business hours and on the weekends.

That being said, we have completed responses to Atlas' written discovery requests for the following individuals: Donald Anderson, James Blankenship, David Clark, Randy Feury, Steven Fisher, Jesse Hedrick, David Johnson, Dennis Light, Jerry Sink, Jimmy Snyder, David Welch and David West. We are wrapping up our meetings with the remaining five individuals by Monday afternoon. We will likely need a few days to finish pulling everything together so, while you may not have the responses in hand on July 25, 2012, they will certainly be on the way to you. The responses will likely be too lengthy to scan and email. If that timeline is not sufficient for you, then feel free to file your motion to compel. We look forward to defending it in a case where we have not even received initial disclosures from one party and the court has not yet ruled on a critical motion.

As it relates to depositions, our clients will not plan to be deposed during the dates that you mentioned.

As per our email exchange, we advised you that we intended to file a motion for an extension of time for the benefit of all parties. It does not make much sense for either party to throw resources at a case that is pending dismissal. As even you mentioned, you currently want to depose all 17 plaintiffs but that may change based upon their responses to the written discovery. I am not sure what has changed your mind since we initially discussed this but we still plan on filing a motion for extension of time in which to complete discovery.

We plan to depose the following individuals from Atlas: Marty Bolden, Steve Chambers, Charlie Lowry, Chuck Martin. We plan to also depose Rosie Via, Steve Smith, Michael Hopkins, and possible Bernard "Buddy" Smith. I propose the week of August 27-31st for all of the depositions.

Finally, I must highlight a disturbing trend that is occurring with your client. Following in the wake of retaliation against David Eugene Johnson, Atlas is still retaliating against my clients. While the union is supposed to safeguard them from this activity, they are not. On or about June 21, Jeff Bush, a sanitation supervisor, was seen placing pieces of cardboard behind a rack at work. This rack was under the care of plaintiff, Donald Lee Anderson. Mr. Anderson was responsible for keeping this area clean. Mr. Bush placed refuse and cardboard into the rack and then took a picture of the rack. All of this was witnessed. When Mr. Anderson confronted the union, he was told by Michael Byrd that the union would accept this grievance, but that they would "keep it on file." This behavior is utterly outrageous. Please instruct your client to stop retaliating against my plaintiffs.

--Tom



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